

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/15/05

Referred: Finance

Sponsor(s): REPRESENTATIVES COGHILL, Ramras, Rokeberg, Kelly, McGuire, Lynn, Anderson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to child-in-need-of-aid proceedings; amending the construction of**
2 **statutes pertaining to children in need of aid; relating to guardianships; relating to the**
3 **confidentiality of investigations, court hearings, and public agency records and**
4 **information in child-in-need-of-aid matters and certain child protection matters, to**
5 **immunity regarding disclosure of information in child-in-need-of-aid matters and**
6 **certain child protection matters, to proceedings regarding voluntary relinquishment and**
7 **termination of a parent and child relationship, to eligibility for permanent fund**
8 **dividends for certain children in the custody of the state, and to juvenile delinquency**
9 **proceedings and placements; reestablishing and relating to a state citizens' review panel;**
10 **amending the duty to disclose information pertaining to a child in need of aid; relating**
11 **to disclosure of confidential or privileged information about children and families**
12 **involved with children's services within the Department of Health and Social Services to**

officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; relating to consent for the medication of children in state custody; prescribing the rights of family members related to child-in-need-of-aid cases and establishing a familial priority for adoption in certain child-in-need-of-aid cases; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending Rules 9 and 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules of Procedure, and Rules 14 and 15, Alaska Rules of Probate Procedure; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 13.26.055 is amended to read:

Sec. 13.26.055. Court appointment of guardian of minor; qualifications; priority of minor's nominee and adult family member. (a) The court may appoint as guardian any person whose appointment would be in the best interests of the minor. **Except as provided in (b) of this section, the** [THE] court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interests of the minor.

* **Sec. 2.** AS 13.26.055 is amended by adding a new subsection to read:

(b) If an adult family member is available and willing to serve as a guardian of a minor, the court shall appoint the adult family member as guardian unless

(1) the court finds the appointment contrary to the best interests of the minor; and

(2) the person is not nominated by the minor under (a).

* **Sec. 3.** AS 13.26 is amended by adding a new section to read:

Sec. 13.26.064. Guardianship after voluntary relinquishment; procedure.

In addition to the applicable procedures under this chapter, a guardianship decree and review of a guardianship decree are governed by the procedures established under AS 25.23.180 and, for a child-in-need-of-aid, AS 47.10.089, pertaining to voluntary relinquishment of parental rights and retaining of parental privileges in a guardianship

1 decree.

2 * **Sec. 4.** AS 25.23 is amended by adding a new section to read:

3 **Sec. 25.23.127. Adult family member preference to adopt.**

4 Notwithstanding a child's stated preference under AS 25.23.125 and 25.23.040(a)(5),
 5 an adult family member who has had physical custody of a child for at least twelve
 6 consecutive months when the parental rights to the child have been terminated under
 7 AS 47.10.080(c)(3) shall be permitted to adopt the child before any other person. The
 8 adult family member may exercise the right granted under this section by filing a
 9 petition under AS 25.23.080. The court shall grant the adult family member's petition
 10 unless the court finds good cause not to grant the petition. In this section, "adult
 11 family member" has the meaning given in AS 47.10.990.

12 * **Sec. 5.** AS 25.23.180 is amended by adding new subsections to read:

13 (j) In a relinquishment of parental rights executed under (a) of this section, a
 14 parent may retain privileges with respect to the child, including the ability to have
 15 future contact, communication, and visitation with the child. A retained privilege
 16 must be stated with specificity in writing, and, not less than 10 days after the
 17 relinquishment is signed, the court may enter an order terminating parental rights if the
 18 court finds that termination of parental rights under the terms of the agreement is in
 19 the child's best interest. If a parent has retained one or more privileges, the court shall
 20 incorporate the retained privileges into the termination order with a recommendation
 21 that the retained privileges be incorporated in an adoption or legal guardianship
 22 decree.

23 (k) A voluntary relinquishment may not be withdrawn and a termination order
 24 may not be vacated on the ground that a retained privilege has been withheld from the
 25 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
 26 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
 27 Procedure.

28 (l) After a termination order is entered, a person who has voluntarily
 29 relinquished parental rights under this section may request a review hearing, upon a
 30 showing of good cause, to seek enforcement or modification of or to vacate a privilege
 31 retained in the termination order. The court may modify, enforce, or vacate the

1 retained privilege if the court finds, by clear and convincing evidence, that it is in the
2 best interest of the child to do so.

3 (m) After a termination order is entered and before the entry of an adoption or
4 legal guardianship decree, a prospective adoptive parent or a guardian of the child may
5 request, after providing notice as specified under this subsection, that the court decline
6 to incorporate a privilege retained in a termination order and recommended for
7 incorporation in an adoption or guardianship decree under (j) of this section. If the
8 person who has relinquished parental rights to the child who is the subject of the
9 adoption or guardianship decree did not waive rights to notice of adoption under (b) of
10 this section, the request made under this subsection may only be considered by the
11 court after providing at least 20 days' notice by certified mail to the last known address
12 of the person who has voluntarily relinquished parental rights to the child. The notice
13 under this subsection must describe the request and explain that the recipient of the
14 notice may submit a written statement under penalty of perjury to the court that the
15 recipient either agrees with or opposes the request. The notice must also include the
16 deadline for submitting the statement and the mailing address of the court. The court
17 may decline to incorporate a retained privilege if the person who retained the privilege
18 agrees with the request or if the court finds that it is in the child's best interest.

19 (n) A person who relinquished parental rights is entitled to the appointment of
20 an attorney if a hearing is requested under (l) or (m) of this section to the same extent
21 as if the parent's rights had not been terminated in a child-in-need-of-aid proceeding.

22 * **Sec. 6.** AS 43.23.005(f) is amended to read:

23 (f) **The** [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE]
24 commissioner may waive the requirement of (a)(4) of this section for an individual
25 absent from the state

26 **(1) in a time of national military emergency** under military orders
27 while serving in the armed forces of the United States, or for the spouse and
28 dependents of that individual; **or**

29 **(2) while in the custody of the Department of Health and Social**
30 **Services in accordance with a court order under AS 47.10 or AS 47.12 and placed**
31 **outside of the state by the Department of Health and Social Services for purposes**

1 **of medical or behavioral treatment.**

2 * **Sec. 7.** AS 47.10.005 is amended to read:

3 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be
4 liberally construed to

5 **(1) achieve** the end that a child coming within the jurisdiction of the
6 court under this chapter may receive the care, guidance, treatment, and control that
7 will promote the child's welfare **and the parents' participation in the upbringing of**
8 **the child; and**

9 **(2) follow the findings set out in AS 47.05.065.**

10 * **Sec. 8.** AS 47.10.020(a) is amended to read:

11 (a) Whenever circumstances subject a child to the jurisdiction of the court
12 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency
13 to make a preliminary inquiry and report for the information of the court to determine
14 whether the best interests of the child require that further action be taken. **The court**
15 **shall make the appointment on its own motion or at the request of a person or**
16 **agency having knowledge of the child's circumstances.** If, under this subsection,
17 the court appoints a person or agency to make a preliminary inquiry and to report to it,
18 **or if the department is conducting an investigation of a report of child abuse or**
19 **neglect, the court may issue any orders necessary to aid the person, the agency,**
20 **or the department in its investigation or in making the preliminary inquiry and**
21 **report. Upon** [THEN, UPON THE] receipt of the report **under this subsection,** the
22 court may

23 (1) close the matter without a court hearing;

24 (2) determine whether the best interests of the child require that further
25 action be taken; or

26 (3) authorize the person or agency having knowledge of the facts of the
27 case to file with the court a petition setting out the facts.

28 * **Sec. 9.** AS 47.10.020 is amended by adding a new subsection to read:

29 (e) Nothing in this section requires the department to obtain authorization
30 from the court before

31 (1) conducting an investigation of a report of child abuse or neglect; or

1 (2) filing a petition.

2 * **Sec. 10.** AS 47.10.070(a) is amended to read:

3 (a) The court may conduct the hearing on the petition in an informal manner.
 4 The court shall give notice of the hearing to the department, and it may send a
 5 representative to the hearing. The court shall also transmit a copy of the petition to the
 6 department. The department shall send notice of the hearing to the persons for whom
 7 notice is required under AS 47.10.030(b) and to each grandparent of the child entitled
 8 to notice under AS 47.10.030(d). The department and the persons to whom the
 9 department must send notice of the hearing are entitled to be heard at the hearing.

10 **Except as provided in (c) of this section, and unless prohibited by federal or state**
 11 **law, court order, or court rule, a hearing is open to the public** [HOWEVER, THE
 12 COURT MAY LIMIT THE PRESENCE OF THE FOSTER PARENT OR OTHER
 13 OUT-OF-HOME CARE PROVIDER AND OF ANY GRANDPARENT OF THE
 14 CHILD TO THE TIME DURING WHICH THE PERSON'S TESTIMONY IS BEING
 15 GIVEN IF IT IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2)
 16 NECESSARY TO PROTECT THE PRIVACY INTERESTS OF THE PARTIES
 17 AND WILL NOT BE DETRIMENTAL TO THE CHILD. THE PUBLIC SHALL BE
 18 EXCLUDED FROM THE HEARING, BUT THE COURT, IN ITS DISCRETION,
 19 MAY PERMIT INDIVIDUALS TO ATTEND A HEARING IF THEIR
 20 ATTENDANCE IS COMPATIBLE WITH THE BEST INTERESTS OF THE
 21 CHILD].

22 * **Sec. 11.** AS 47.10.070 is amended by adding new subsections to read:

23 (c) Except as provided in (e) of this section, the following hearings in child-in-
 24 need-of-aid cases are closed to the public:

25 (1) the initial court hearing after the filing of a petition to commence
 26 the child-in-need-of-aid case;

27 (2) a hearing following the initial hearing in which a parent, child, or
 28 other party to the case is present but has not had an opportunity to obtain legal
 29 representation;

30 (3) a hearing, or a part of a hearing, for which the court issues a written
 31 order finding that allowing the hearing, or part of the hearing, to be open to the public

1 would reasonably be expected to

2 (A) stigmatize or be emotionally damaging to a child;

3 (B) inhibit a child's testimony in that hearing;

4 (C) disclose matters otherwise required to be kept confidential
5 by state or federal statute or regulation, court order, or court rule; or

6 (D) interfere with a criminal investigation or proceeding or a
7 criminal defendant's right to a fair trial in a criminal proceeding; before ruling
8 on a request under this subparagraph, the court shall give notice and an
9 opportunity to be heard to the state or a municipal agency that is assigned to
10 the criminal investigation or to the prosecuting attorney.

11 (d) If a hearing, or part of a hearing, in a child-in-need-of-aid case is not
12 closed under (c) of this section, the court shall hear in camera any information offered
13 regarding the location, or readily leading to the location, of a parent, child, or other
14 party to the case who is a victim of domestic violence. Access to testimony heard in
15 camera under this subsection is limited to the court and authorized court personnel.

16 (e) The grandparents of the child and the foster parents or other out-of-home
17 care provider may attend hearings that are otherwise closed to the public under (c) of
18 this section. However, the court shall limit the presence of these persons in a hearing
19 closed to the public to the time during which the person's testimony is being given if
20 the court determines that the limitation is necessary under (c)(3) of this section. In this
21 subsection, "out-of-home care provider" means an agency or person, other than the
22 child's legal parents, with whom a child who is in the custody of the state under
23 AS 47.10.080(c)(1) or (3), 47.10.142, or AS 47.14.100(c) is currently placed; "agency
24 or person" includes a foster parent, an adult family member other than a parent, a
25 person who has petitioned for adoption of the child, and a residential child care
26 facility.

27 (f) Notwithstanding any other provision of this chapter, a person attending a
28 hearing open to the public may not disclose a name, picture, or other information that
29 would readily lead to the identification of a child who is the subject of the child-in-
30 need-of-aid case. At the beginning of the hearing, the court shall issue an order
31 specifying the restrictions necessary to comply with this subsection. If a person

1 violates the order, the court may impose any appropriate sanction, including contempt
2 and closure of any further hearings in the case to the person.

3 (g) Nothing contained in this section limits the rights of an adult family
4 member under this title.

5 * **Sec. 12.** AS 47.10.080(c) is amended to read:

6 (c) If the court finds that the child is a child in need of aid, the court shall

7 (1) order the child committed to the department for placement in an
8 appropriate setting for a period of time not to exceed two years or in any event **not to**
9 **extend** past the date the child becomes 19 years of age, except that the department or
10 the child's guardian ad litem may petition for and the court may grant in a hearing

11 (A) one-year extensions of commitment that do not extend
12 beyond the child's 19th birthday if the extension is in the best interests of the
13 child; and

14 (B) an additional one-year period of state custody past [AGE]
15 19 **years of age** if the continued state custody is in the best interests of the
16 person and the person consents to it;

17 (2) order the child released to a parent, **adult family member**
18 [RELATIVE], or guardian of the child or to another suitable person, and, in
19 appropriate cases, order the parent, **adult family member** [RELATIVE], guardian, or
20 other person to provide medical or other care and treatment; if the court releases the
21 child, it shall direct the department to supervise the care and treatment given to the
22 child, but the court may dispense with the department's supervision if the court finds
23 that the adult to whom the child is released will adequately care for the child without
24 supervision; the department's supervision may not exceed two years or in any event
25 extend past the date the child reaches [AGE] 19 **years of age**, except that the
26 department or the child's guardian ad litem may petition for and the court may grant in
27 a hearing

28 (A) one-year extensions of supervision that do not extend
29 beyond the child's 19th birthday if the extensions are in the best interests of the
30 child; and

31 (B) an additional one-year period of supervision past [AGE] 19

1 years of age if the continued supervision is in the best interests of the person
 2 and the person consents to it; or

3 (3) order, under the grounds specified in (o) of this section or
 4 AS 47.10.088, the termination of parental rights and responsibilities of one or both
 5 parents and commit the child to the custody of the department, and the department
 6 shall report quarterly to the court on efforts being made to find a permanent placement
 7 for the child.

8 * **Sec. 13.** AS 47.10.080(*l*) is amended to read:

9 (*l*) Within 12 months after the date a child enters foster care as calculated
 10 under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and
 11 permanent plan developed in the hearing are governed by the following provisions:

12 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of
 13 this section are also entitled to be heard at the hearing held under this subsection;

14 (2) when establishing the permanent plan for the child, the court shall
 15 make appropriate written findings, including findings related to whether

16 (A) and when the child should be returned to the parent or
 17 guardian;

18 (B) the child should be placed for adoption or legal
 19 guardianship and whether a petition for termination of parental rights should be
 20 filed by the department; and

21 (C) the child should be placed in another planned, permanent
 22 living arrangement and what steps are necessary to achieve the new
 23 arrangement;

24 (3) if the court is unable to make a finding required under (2) of this
 25 subsection, the court shall hold another hearing within a reasonable period of time;

26 (4) in addition to the findings required by (2) of this subsection, the
 27 court shall also make appropriate written findings related to

28 (A) whether the department has made the reasonable efforts
 29 required under AS 47.10.086 to offer appropriate family support services to
 30 remedy the parent's or guardian's conduct or conditions in the home that made
 31 the child a child in need of aid under this chapter;

(B) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter; [AND]

(C) if the permanent plan is for the child to remain in out-of-home-care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child; and

(D) whether the department has made reasonable efforts to finalize the permanent plan for the child;

(5) the court shall hold a hearing to review the permanent plan at least annually until successful implementation of the plan; if the plan approved by the court changes after the hearing, the department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the department.

* **Sec. 14.** AS 47.10.080(p) is amended to read:

(p) If a child is removed from the parental home, the department shall provide reasonable visitation between the child and the child's parents, guardian, and family. When determining what constitutes reasonable visitation with a family member, the department shall consider the nature and quality of the relationship that existed between the child and the family member before the child was committed to the custody of the department. The court may require the department to file a visitation plan with the court. The department may deny visitation to the parents, guardian, or family members if there is clear and convincing evidence that visits are not in the child's best interests. **If the department denies visitation to a parent or family member of a child, the department shall inform the parent or family member of a reason for the denial and of the parent's or family member's right to request a review hearing as an interested person.** A parent, family member, or guardian who is denied visitation may request a review hearing. **A non-party adult family member requesting a review hearing under this subsection is not eligible for publicly appointed legal counsel.**

* **Sec. 15.** AS 47.10.080 is amended by adding new subsections to read:

(t) The court may not terminate parental rights solely on the basis that the

parent did not complete treatment required of the parent by the department for reunification with the child if the treatment required was unavailable to the parent and the department did not provide the treatment.

(u) For a child who is placed in foster care, when the department finds that it is in the best interest of a child and that the foster family will not be placed in undue risk of harm, the department shall require foster parents to provide regular opportunities for visitation with the child by the parents of the child and encourage foster parents to serve as mentors for facilitating family reunification.

(v) A hearing conducted under this section is open to the public unless an exception provided in AS 47.10.070(c) applies to make the hearing closed to the public or unless prohibited by federal or state statute or regulation.

* **Sec. 16.** AS 47.10.084(c) is amended to read:

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 25.20.025, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section. **In this subsection, "major medical treatment" includes the administration of medication used to treat a mental health disorder.**

* **Sec. 17.** AS 47.10.088(i) is amended to read:

(i) The department shall concurrently identify, recruit, process, and approve a qualified person or family for an adoption whenever a petition to terminate a parent's rights to a child is filed. **Before approving a placement of the child for adoption under this chapter, the department shall attempt to locate all living adult family members of the child and to investigate the adult family members' ability to care for the child. The department shall provide to all adult family members of the child located by the department written notice of the adult family members' rights under this chapter and of the procedures necessary to gain custody of the**

child. The department may not approve an adoption by a person or family who is not related to the child if an adult family member of the child requests that the department approve the adult family member for the adoption, unless the adoption by the child's adult family member is not in the child's best interest, is prohibited under (l) of this section, or is otherwise contrary to federal or state law. If the court issues an order to terminate under (j) of this section, the department shall report within 30 days on the efforts being made to recruit a permanent placement for the child if a permanent placement was not approved at the time of the trial under (j) of this section. The report must document recruitment efforts made for the child.

* **Sec. 18.** AS 47.10.088 is amended by adding new subsections to read:

(l) The department may not approve an adoption by an adult family member if the department

(1) makes a determination, supported by clear and convincing evidence, that adoption of the child by the adult family member will result in physical or mental injury to the child; in making that determination, poverty, including inadequate or crowded housing, on the part of the adult family member is not considered prima facie evidence that physical or mental injury to the child will occur;

(2) determines that a member of the adult family member's household who is 12 years of age or older was the perpetrator in a substantiated report of abuse under AS 47.17; or

(3) determines that a member of the adult family member's household who is 12 years of age or older is under arrest for, is charged with, has been convicted of, or has been found not guilty by reason of insanity of, a serious offense; notwithstanding this paragraph, the department may approve an adoption by the adult family member if the adult family member demonstrates to the satisfaction of the department that conduct described in this paragraph occurred at least five years before the intended adoption and the conduct

(A) did not involve a victim who was under 18 years of age at the time of the conduct;

(B) was not a crime of domestic violence as defined in AS 18.66.990; and

(C) was not a violent crime under AS 11.41.100 - 11.41.455 or a law or ordinance of another jurisdiction having similar elements.

(m) For the purpose of determining whether the home of an adult family member meets the requirements for adoption of the child, the department shall conduct a criminal background check from state and national criminal justice information available under AS 12.62. The department may conduct a fingerprint background check on any member of the adult family member's household who is 12 years of age or older when the adult family member requests adoption of the child. For the purposes of obtaining criminal justice information under this subsection, the department is a criminal justice agency conducting a criminal justice activity under AS 12.62.

(n) An adult family member who is denied a request for an adoption under (i) of this section may request a review hearing by the court. If the department denies a request by an adult family member to adopt a child under (i) of this section, the department shall inform the adult family member of the reason for the denial and of the adult family member's right to request a review hearing. A non-party adult family member requesting a review hearing under this subsection is not eligible for publicly appointed legal counsel.

(o) A trial or hearing conducted under this section is open to the public unless an exception provided in AS 47.10.070(c) applies to make the trial or hearing closed to the public. The court shall uphold the department's decision under this section if the court finds, by clear and convincing evidence, that the decision is in the best interest of the child and otherwise complies with the requirements of this section.

* **Sec. 19.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.089. Voluntary relinquishment of parental rights and responsibilities. (a) When a child is committed to the custody of the department under AS 47.10.080(c)(1) or (3) or released under AS 47.10.080(c)(2), the rights of a parent with respect to the child, including parental rights to control the child, to withhold consent to an adoption, or to receive notice of a hearing on a petition for adoption, may be voluntarily relinquished to the department and the relationship of parent and child terminated in a proceeding as provided under this section.

1 (b) A voluntary relinquishment must be in writing and signed by a parent,
2 regardless of the age of the parent, in the presence of a representative of the
3 department or in the presence of a court of competent jurisdiction with the knowledge
4 and approval of the department. A copy of the signed relinquishment shall be given to
5 the parent.

6 (c) A voluntary relinquishment may be withdrawn within 10 days after it is
7 signed. The relinquishment is invalid unless the relinquishment contains the right of
8 withdrawal as specified under this subsection.

9 (d) A parent may retain privileges with respect to the child, including the
10 ability to have future contact, communication, and visitation with the child in a
11 voluntary relinquishment executed under this section. A retained privilege must be in
12 writing and stated with specificity.

13 (e) Not less than 10 days after a voluntary relinquishment is signed, the court
14 shall enter an order terminating parental rights if the court determines that termination
15 of parental rights under the terms of the relinquishment is in the child's best interest.
16 If a parent has retained one or more privileges under (d) of this section, the court shall
17 incorporate the retained privileges in the termination order with a recommendation
18 that the retained privileges be incorporated in an adoption or legal guardianship
19 decree.

20 (f) A voluntary relinquishment may not be withdrawn and a termination order
21 may not be vacated on the ground that a retained privilege has been withheld from the
22 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
23 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
24 Procedure.

25 (g) After a termination order is entered, a person who has voluntarily
26 relinquished parental rights under this section may request a review hearing, upon a
27 showing of good cause, to seek enforcement or modification of or to vacate a privilege
28 retained in the termination order. The court may modify, enforce, or vacate the
29 retained privilege if the court finds, by clear and convincing evidence, that it is in the
30 best interest of the child to do so.

31 (h) After a termination order is entered and before the entry of an adoption or

1 legal guardianship decree, a person who voluntarily relinquished parental rights to a
 2 child under this section may request a review hearing, upon a showing of good cause,
 3 to vacate the termination order and reinstate parental rights relating to that child. A
 4 court shall vacate a termination order if the person shows, by clear and convincing
 5 evidence, that reinstatement of parental rights is in the best interest of the child and
 6 that the person is rehabilitated and capable of providing the care and guidance that will
 7 serve the moral, emotional, mental, and physical welfare of the child.

8 (i) A person who relinquished parental rights is entitled to the appointment of
 9 an attorney if a hearing is requested under (g), (h), or (j) of this section to the same
 10 extent as if the parent's rights had not been terminated in a child-in-need-of-aid
 11 proceeding.

12 (j) After a termination order is entered and before the entry of an adoption or
 13 legal guardianship decree, a prospective adoptive parent or a guardian of the child may
 14 request, after providing notice as specified under this subsection, that the court decline
 15 to incorporate a privilege retained in a termination order and recommended for
 16 incorporation in an adoption or guardianship decree under (e) of this section. If the
 17 person who has relinquished parental rights to the child who is the subject of the
 18 adoption or guardianship decree did not waive rights to notice of adoption under (a) of
 19 this section, the request made under this subsection may only be considered by the
 20 court after providing at least 20 days' notice by certified mail to the last known address
 21 of the person who has voluntarily relinquished parental rights to the child. The notice
 22 under this subsection must describe the request and explain that the recipient of the
 23 notice may submit a written statement under penalty of perjury to the court that the
 24 recipient either agrees with or opposes the request. The notice must also include the
 25 deadline for submitting the statement and the mailing address of the court. The court
 26 may decline to incorporate a retained privilege if the person who retained the privilege
 27 agrees with the request or if the court finds that it is in the child's best interest.

28 * **Sec. 20.** AS 47.10.090(c) is amended to read:

29 (c) Within 30 days after [OF] the date of a child's [MINOR'S] 18th birthday
 30 or, if the court retains jurisdiction of a child [MINOR] past the child's [MINOR'S]
 31 18th birthday, within 30 days after [OF] the date on which the court releases

jurisdiction over the **child** [MINOR], the court shall order all the court's official records pertaining to that **child** [MINOR] in a proceeding under this chapter sealed. A person may not use these sealed records **unless authorized by order of** [FOR ANY PURPOSE EXCEPT THAT] the court **upon a finding of** [MAY ORDER THEIR USE FOR] good cause [SHOWN].

* **Sec. 21.** AS 47.10.090(d) is amended to read:

(d) **Except as provided in AS 47.10.070, 47.10.080(v), and 47.10.093, the** [THE] name or picture of a **child** [MINOR] under the jurisdiction of the court may not be made public in connection with the **child's** [MINOR'S] status as a child in need of aid unless authorized by order of the court **or unless to implement the permanency plan for a child after all parental rights of custody have been terminated. This subsection does not prohibit the release of aggregate information for statistical or other informational purposes if the identity of any particular person is not revealed by the release.**

* **Sec. 22.** AS 47.10.092(a) is amended to read:

(a) Notwithstanding AS 47.10.090 and 47.10.093, **an adult family member** [A PARENT] or legal guardian of a child subject to a proceeding under AS 47.10.005 - 47.10.142 may disclose confidential or privileged information about the child or the child's family, including information that has been lawfully obtained from agency or court files, to the governor, the lieutenant governor, a legislator, the ombudsman appointed under AS 24.55, the attorney general, and the **commissioner** [COMMISSIONERS] of health and social services, administration, or public safety, or an employee of these persons, for review or use in their official capacities. The department shall disclose additional confidential or privileged information and make copies of documents available for inspection about the child or the child's family to these state officials or employees for review or use in their official capacities upon request of the official or employee and submission of satisfactory evidence that a parent or legal guardian of the child has requested the state official's assistance in the case as part of the official's duties. A person to whom disclosure is made under this section may not disclose confidential or privileged information about the child or the child's family to a person not authorized to receive it.

1 * **Sec. 23.** AS 47.10.092 is amended by adding new subsections to read:

2 (d) The obligations under (a) of this section to disclose information and
 3 provide copies, and the obligations not to disclose certain confidential or privileged
 4 information, remain in effect throughout the period that the child is in the custody of
 5 the department, including after the parent's parental rights have been terminated with
 6 respect to the child, unless another parent or legal guardian of the child subsequently
 7 files a notice with the Department of Health and Social Services that the assistance of
 8 the state official or employee is no longer requested.

9 (e) The Department of Health and Social Services shall notify an official
 10 identified under (a) of this section of the opportunity for a parent to file a grievance
 11 under AS 47.10.098 when the official is denied access to all or part of a requested
 12 record.

13 * **Sec. 24.** AS 47.10.093(a) is amended to read:

14 (a) Except as specified in AS 47.10.092 and in (b) - (g) and (k) - (n) [(b) -
 15 (g)] of this section and as provided in a notice to all parties in a child-in-need-of-
 16 aid proceeding under applicable court rules, all information and social records
 17 pertaining to a child [MINOR] who is subject to this chapter or AS 47.17 prepared by
 18 or in the possession of a federal, state, or municipal agency or employee in the
 19 discharge of the agency's or employee's official duty are privileged and may not be
 20 disclosed directly or indirectly to anyone without a court order.

21 * **Sec. 25.** AS 47.10.093(b) is amended to read:

22 (b) A state or municipal agency or employee shall disclose appropriate
 23 confidential information regarding a case to

24 (1) a guardian ad litem appointed by the court;

25 (2) a person or an agency requested by the department or the child's
 26 legal custodian to provide consultation or services for a child who is subject to the
 27 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of
 28 the consultation or services;

29 (3) a foster parent [PARENTS] or relative [RELATIVES] with
 30 whom the child is placed by the department as [MAY BE] necessary to enable the
 31 foster parent [PARENTS] or relative [RELATIVES] to provide appropriate care to

[FOR] the child [WHO IS THE SUBJECT OF THE CASE], to protect the safety of the child [WHO IS THE SUBJECT OF THE CASE], and to protect the safety and property of family members and visitors of the foster **parent** [PARENTS] or **relative** [RELATIVES];

(4) **a** school **official** [OFFICIALS] as [MAY BE] necessary to enable the school to provide appropriate counseling and support services to **a** [THE] child who is the subject of the case, to protect the safety of the child [WHO IS THE SUBJECT OF THE CASE], and to protect the safety of school students and staff;

(5) a governmental agency as [MAY BE] necessary to obtain that agency's assistance for the department in its investigation or to obtain physical custody of a child;

(6) a law enforcement agency of this state or another jurisdiction as [MAY BE] necessary for the protection of any child or for actions by that agency to protect the public safety;

(7) **a member** [MEMBERS] of a multidisciplinary child protection team created under AS 47.14.300 as [MAY BE] necessary for the performance of **the member's** [THEIR] duties;

(8) the state medical examiner under AS 12.65 as [MAY BE] necessary for the performance of the duties of the state medical examiner;

(9) a person who has made a report of harm as required by AS 47.17.020 to inform the person that the investigation was completed and of action taken to protect the child who was the subject of the report; [AND]

(10) the child support services agency established in AS 25.27.010 as [MAY BE] necessary to establish and collect child support for a child who is a child in need of aid under this chapter;

(11) a caregiver of a child or an entity responsible for ensuring the safety of children as necessary to protect the safety of a child; and

(12) a review panel established by the department, the legislature, or the governor for the purpose of reviewing the actions taken by the department in a specific case.

* **Sec. 26.** AS 47.10.093(c) is repealed and reenacted to read:

(c) A state or municipal law enforcement agency shall disclose information regarding a case that is needed by the person or agency charged with making a preliminary investigation for the information of the court under AS 47.10.020.

* **Sec. 27.** AS 47.10.093(f) is amended to read:

(f) The department may release to a person with a legitimate interest confidential information relating to children [MINORS] not subject to the jurisdiction of the court under AS 47.10.010. [THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING THE RELEASE OF INFORMATION AND IDENTIFYING A SUFFICIENT LEGITIMATE INTEREST.]

* **Sec. 28.** AS 47.10.093(g) is amended to read:

(g) The department and affected law enforcement agencies shall work with school districts and private schools to develop procedures for the disclosure of confidential information to a school official [OFFICIALS] under (b)(4) of this section. The procedures must provide a method for informing the principal or the principal's designee of the school that the student attends as soon as it is reasonably practicable.

* **Sec. 29.** AS 47.10.093 is amended by adding new subsections to read:

(k) The Department of Health and Social Services and the Department of Administration may disclose to the public, upon request, confidential information, as set out in (l) of this section, when

(1) the parent or guardian of a child who is the subject of a report of harm under AS 47.17 has made a public disclosure concerning the department's involvement with the family;

(2) the alleged perpetrator named in a report of harm under AS 47.17 has been charged with a crime concerning the alleged abuse or neglect; or

(3) a report of harm under AS 47.17 has resulted in the fatality or near fatality of that child.

(l) The type of information that may be publicly disclosed under (k) of this section is information related to the determination, if any, made by the department regarding the validity of a report of harm under AS 47.17 and the department's activities arising from the department's investigation of the report. The department

(1) may withhold disclosure of the child's name, picture, or other information that would readily lead to the identification of the child if the department determines that the disclosure would be contrary to the best interests of the child, the child's siblings, or other children in the child's household; or

(2) after consultation with a prosecuting attorney, may withhold disclosure of information that would reasonably be expected to interfere with a criminal investigation or proceeding or a criminal defendant's right to a fair trial in a criminal proceeding.

(m) Except for a disclosure made under (k) of this section, a person to whom disclosure is made under this section may not disclose confidential information about the child or the child's family to a person not authorized to receive it.

(n) The Department of Health and Social Services and the Department of Administration may adopt regulations to implement and interpret the duties of the respective department under this section, including regulations governing the release of confidential information and identifying a sufficient legitimate interest under (f) of this section.

(o) A person may not bring an action for damages against the state, the commissioner, or the commissioner's designee based on the disclosure or nondisclosure of information under (k) of this section except for civil damages resulting from gross negligence or reckless or intentional misconduct.

* **Sec. 30.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.098. Grievance procedure. (a) The department shall develop, in regulation, a grievance procedure for a parent to file a complaint based on

(1) the application of a department policy or procedure under this chapter;

(2) compliance with this chapter or a regulation adopted under this chapter; or

(3) an act or failure to act by the department under this chapter.

(b) The department shall prepare and distribute to each parent of a child who is under the jurisdiction of the department a written copy of the grievance procedure developed under (a) of this section.

1 * **Sec. 31.** AS 47.10.960 is repealed and reenacted to read:

2 **Sec. 47.10.960. Civil liability.** Failure to comply with a provision of this title
3 does not constitute a basis for civil liability for damages.

4 * **Sec. 32.** AS 47.10.990(16) is amended to read:

5 (16) "mental health professional" has the meaning given in
6 AS 47.30.915, except that, if the child is placed in another state by the
7 department, "mental health professional" also includes a professional listed in
8 the definition of "mental health professional" in AS 47.30.915 who is not licensed
9 to practice by a board of this state but is licensed by a corresponding licensing
10 authority to practice in the state in which the child is placed;

11 * **Sec. 33.** AS 47.10.990 is amended by adding new paragraphs to read:

12 (28) "adult family member" means a person who is 18 years of age or
13 older and who is related to the child as the child's legal parent, grandparent, aunt,
14 uncle, or sibling;

15 (29) "family member" means a person of any age who is related to the
16 child as the child's legal parent, grandparent, aunt, uncle, or sibling;

17 (30) "near fatality" means physical injury or other harm, as certified by
18 a physician, caused by an act or omission that created a substantial risk of death.

19 * **Sec. 34.** AS 47.12.990(10) is amended to read:

20 (10) "mental health professional" has the meaning given in
21 AS 47.30.915, except that, if the minor is placed in another state by the
22 department, "mental health professional" also includes a professional listed in
23 the definition of "mental health professional" in AS 47.30.915 who is not licensed
24 to practice by a board of this state but is licensed by a corresponding licensing
25 authority to practice in the state in which the minor is placed;

26 * **Sec. 35.** AS 47.14.100(e) is amended to read:

27 (e) If an adult family member or a family friend [A CHILD MAY NOT BE
28 PLACED IN A FOSTER HOME OR IN THE CARE OF AN AGENCY OR
29 INSTITUTION PROVIDING CARE FOR CHILDREN IF A RELATIVE BY
30 BLOOD OR MARRIAGE] requests placement of the child in the [RELATIVE'S]
31 home of the adult family member or family friend, and the parent or guardian of

1 the child agrees to the placement, a child may not be placed in a foster home that
 2 is not operated by the adult family member or family friend and may not be
 3 placed in the care of an agency or institution providing care for children.
 4 Nothing in this subsection waives the requirement that a family friend be licensed
 5 as a foster home before a child is place with a family friend. However, the
 6 department may retain custody of the child and provide for the child's [ITS]
 7 placement in the same manner as for other children if the department

8 (1) makes a determination, supported by clear and convincing
 9 evidence, that placement of the child with the adult family member or family friend
 10 [RELATIVE] will result in physical or mental injury; in making that determination,
 11 poverty, including inadequate or crowded housing, on the part of the adult family
 12 member or family friend [, BLOOD RELATIVE] is not considered prima facie
 13 evidence that physical or emotional damage to the child will occur; this determination
 14 may be appealed to the superior court to hear the matter de novo;

15 (2) determines that a member of an adult family member's or family
 16 friend's [THE RELATIVE'S] household who is 12 years of age or older was the
 17 perpetrator in a substantiated report of abuse under AS 47.17; [OR]

18 (3) determines that a member of an adult family member's or family
 19 friend's [THE RELATIVE'S] household who is 12 years of age or older is under
 20 arrest for, charged with, has been convicted of, or has been found not guilty by reason
 21 of insanity of, a serious offense; notwithstanding this paragraph, the department may
 22 place or continue the placement of a child at the adult family member's or family
 23 friend's [RELATIVE'S] home if the adult family member or family friend
 24 [RELATIVE] demonstrates to the satisfaction of the department that conduct
 25 described in this paragraph occurred at least five years before the intended placement
 26 and the conduct

27 (A) did not involve a victim who was under 18 years of age at
 28 the time of the conduct;

29 (B) was not a crime of domestic violence as defined in
 30 AS 18.66.990; and

31 (C) was not a violent crime under AS 11.41.100 - 11.41.455 or

a law or ordinance of another jurisdiction having similar elements;

(4) determines that placement under this section with an adult family member or a family friend is in the best interest of the child over the objection of the parent or guardian; or

(5) determines that the parent's or guardian's preference is not appropriate because placement of the child would not be in the child's best interest and the child would not be located near the parent for purposes of visitation or reunification.

* **Sec. 36.** AS 47.14.100(f) is amended to read:

(f) If **an adult family member** [A BLOOD RELATIVE] of the child specified under (e) of this section exists and agrees that the child should be placed elsewhere, before placement elsewhere, the department shall fully communicate the nature of the placement proceedings to the **adult family member** [RELATIVE]. Communication under this subsection shall be made in the **adult family member's** [RELATIVE'S] native language, if necessary. [NOTHING IN THIS SUBSECTION OR IN (e) OF THIS SECTION APPLIES TO CHILD PLACEMENT FOR ADOPTIVE PURPOSES.]

* **Sec. 37.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.205. State Citizen Review Panel. (a) There is established within the department a Citizen Review Panel. The panel shall be composed of volunteer members who are broadly representative of the state, including members who have expertise in the prevention and treatment of child abuse and neglect.

(b) The panel shall meet not less than once every three months. Meetings may take place telephonically and shall be closed to the public.

* **Sec. 38.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.215. Duties of the state panel. (a) The state panel shall evaluate the extent to which the department is effectively discharging its child protection responsibilities under

(1) the state plan submitted to the United States Department of Health and Human Services under 42 U.S.C. 5106a(b);

(2) child protection standards under federal and state laws; and

(3) any other criteria that the panel considers important to ensuring the protection of children, including the level and efficiency of coordination of foster care and adoption programs in the state and a review of child fatalities and near fatalities.

(b) In carrying out the responsibilities under (a) of this section, the state panel shall examine the policies, procedures, and practices of the department, and, where appropriate, evaluate specific cases of child abuse or neglect.

(c) The commissioner shall, by regulation, establish policies and procedures necessary to carrying out the duties of the state panel under this section.

* **Sec. 39.** AS 47.14 is amended by adding a new section to article 3 read:

Sec. 47.14.225. Cooperation with state panel. (a) The department shall provide the panel access to information on child abuse or neglect cases that is necessary for the panel to carry out its duties under AS 47.14.215.

(b) The department shall serve as staff to the state panel as requested by the panel members.

* **Sec. 40.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.235. Confidentiality. The members and staff of the state panel may not disclose to any person, including a government agency or official, records or other information containing personally identifying or other information made confidential under state or federal law about a child or a witnesses involved in a case under review by the panel.

* **Sec. 41.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.245. Public outreach. The state panel shall conduct public outreach and gather public comment on current department procedures and practices involving children and family services.

* **Sec. 42.** AS 47.14 is amended by adding a new section to article 3 to read:

Sec. 47.14.255. Report. (a) The state panel shall prepare and make available to the governor, the legislature, and to the public an annual report containing a summary of the activities of the panel conducted under AS 47.14.205 - 47.14.295 and recommendations for the improvement of child protection services in the state.

(b) Not later than six months after the date on which the report is released under (a) of this section, the department shall submit a written response to the report.

1 The department's response must include a description of whether and how the
2 department will incorporate the recommendations of the panel, where appropriate.

3 * **Sec. 43.** AS 47.14 is amended by adding a new section to article 3 to read:

4 **Sec. 47.14.265. Civil penalty for violation of AS 47.14.235.** A violation
5 under 47.14.235 is subject to a civil penalty of up to \$2,500 for each violation.

6 * **Sec. 44.** AS 47.14 is amended by adding a new section to article 3 to read:

7 **Sec. 47.14.275. Immunity.** A member of the state panel and a person who
8 furnishes services to or advises the state panel is not liable for damages or other relief
9 in an action involving the performance or failure to perform a duty or other activity of
10 the state panel.

11 * **Sec. 45.** AS 47.14 is amended by adding a new section to article 3 to read:

12 **Sec. 47.14.295. Definitions.** In AS 47.14.205 - 47.14.295,

13 (1) "adult family member" has the meaning given in AS 47.10.990;

14 (2) "near fatality" has the meaning given in AS 47.10.990;

15 (3) "state panel" means the Citizen Review Panel established under
16 AS 47.14.205.

17 * **Sec. 46.** AS 47.17.025 is amended by adding a new subsection to read:

18 (c) Within 20 days after receiving a report of harm, whether or not the matter
19 is referred to a local government agency, the department shall notify the person who
20 made the report and who made a request to be notified, about the status of the
21 investigation, without disclosing any confidential information.

22 * **Sec. 47.** AS 47.17.027(a) is amended to read:

23 (a) If the department or a law enforcement agency provides written
24 certification to the child's school officials that (1) there is reasonable cause to suspect
25 that the child has been abused or neglected by a person responsible for the child's
26 welfare or as a result of conditions created by a person responsible for the child's
27 welfare; (2) an interview at school is a necessary part of an investigation to determine
28 whether the child has been abused or neglected; and (3) the interview at school is in
29 the best interests of the child, school officials shall permit the child to be interviewed
30 at school by the department or a law enforcement agency before notification of, or
31 receiving permission from, the child's parent, guardian, or custodian. A school official

shall be present during an interview at the school unless the child objects or the department or law enforcement agency determines that the presence of the school official will interfere with the investigation. **The interview shall be conducted as required under AS 47.17.033.** Immediately after conducting an interview authorized under this section, and after informing the child of the intention to notify the child's parent, guardian, or custodian, the department or agency shall make every reasonable effort to notify the child's parent, guardian, or custodian that the interview occurred unless it appears to the department or agency that notifying the child's parent, guardian, or custodian would endanger the child.

* **Sec. 48.** AS 47.17.033 is amended by adding new subsections to read:

(c) An investigation by the department of child abuse or neglect reported under this chapter shall be conducted by a person trained to conduct a child abuse and neglect investigation and without subjecting a child to more than one interview about the abuse or neglect except when new information is obtained that requires further information from the child.

(d) An interview of a child conducted as a result of a report of harm shall be audiotaped or videotaped. However, if an interview of a child is to be electronically recorded and the interview concerns a report of sexual abuse of the child, the interview shall be videotaped, except that an interview of a child may not be videotaped if videotaping the interview is impracticable or will, in the opinion of the investigating agency, result in trauma to the child.

(e) An interview of a child that is audiotaped or videotaped under (d) of this section shall be conducted

(1) by a person trained and competent to conduct the interview;

(2) if available, at a child advocacy center; and

(3) by a person who is a party to a memorandum of understanding with the department to conduct the interview or who is employed by an agency that is authorized to conduct investigations.

(f) An interview of a child may not be videotaped more than one time unless the interviewer or the investigating agency determines that one or more additional interviews are necessary to complete an investigation. If additional interviews are

1 necessary, the additional interviews shall be conducted, to the extent possible, by the
2 same interviewer who conducted the initial interview of the child.

3 (g) A recorded interview of a child shall be preserved in the manner and for a
4 period provided by law for maintaining evidence and records of a public agency.

5 (h) A recorded interview of a child is subject to disclosure under the
6 applicable court rules for discovery in a civil or criminal case.

7 * **Sec. 49.** AS 47.18.300(a) is amended to read:

8 (a) The department, in coordination with local public and private agencies,
9 shall design, develop, and implement a foster care transition program to provide
10 support and services to individuals who

11 (1) reach or have reached the age of 16 or older while in state foster
12 care and have not yet reached **23 years of age** [THE AGE OF 21]; and

13 (2) meet other eligibility criteria established by the department under
14 (b) of this section.

15 * **Sec. 50.** The uncoded law of the State of Alaska is amended by adding a new section to
16 read:

17 DIRECT COURT RULE AMENDMENT. Rule 3(c), Alaska Child in Need of
18 Aid Rules of Procedure, is amended to read:

19 (c) **Presence of Grandparent or Foster Parent. A grandparent of a child**
20 **and the** foster parent or other out-of-home care provider **are** [IS] entitled to be heard
21 at any hearing at which the person is present. However, the court may limit the
22 presence of **these persons in a hearing that has been closed to the public under**
23 **(f)(2) of this rule** [THE FOSTER PARENT OR CARE PROVIDER] to the time
24 during which the person's testimony is being given if **the court determines that such**
25 **a limitation is necessary under the circumstances listed in (f)(2)(C) of this rule** [IT
26 IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2) NECESSARY TO
27 PROTECT THE PRIVACY INTERESTS OF THE PARTIES AND WILL NOT BE
28 DETRIMENTAL TO THE CHILD].

29 * **Sec. 51.** The uncoded law of the State of Alaska is amended by adding a new section to
30 read:

31 DIRECT COURT RULE AMENDMENT. Rule 3(f), Alaska Child in Need of

1 Aid Rules of Procedure, is repealed and reenacted to read:

2 (f) **General Public Access to Hearings.**

3 (1) Except as provided in (2) of this paragraph, and unless prohibited
4 by federal or state statute or regulation, court order, or other court rule, hearings are
5 open to the public.

6 (2) The following hearings are closed to the public:

7 (A) the initial court hearing after the filing of a petition that
8 begins the child-in-need-of-aid case;

9 (B) a hearing following the initial hearing in which a parent,
10 child, or other party to the case is present but has not had an opportunity to
11 obtain legal representation;

12 (C) a hearing, or a part of a hearing, for which the court issues
13 a written order finding that allowing the hearing, or part of the hearing, to be
14 open to the public would reasonably be expected to stigmatize or be
15 emotionally damaging to a child; inhibit a child's testimony in the hearing;
16 disclose matters otherwise required to be kept confidential by state or federal
17 statute or regulation, court order, or court rule; or interfere with a criminal
18 investigation or proceeding or a criminal defendant's right to a fair trial in a
19 criminal proceeding.

20 (3) Before ruling on a request under (2)(C) of this paragraph
21 concerning potential interference with a criminal investigation or proceeding, the court
22 shall give notice and an opportunity to be heard to the state or a municipal agency that
23 is assigned to the criminal investigation or to the prosecuting attorney.

24 (4) If the court closes a hearing to the public under (2)(C) of this
25 paragraph, the court shall close only the portions of the hearing necessary to prevent
26 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,
27 is open to the public, the court shall hear in camera any information offered regarding
28 the location, or readily leading to the location, of a parent, child, or other party to the
29 case who is a victim of domestic violence. Access to testimony heard in camera under
30 this subparagraph is limited to the court and authorized court personnel.

31 (5) Notwithstanding any other provision of this rule, the court shall

1 issue an order to prohibit all persons in a hearing open to the public from disclosing to
 2 any person a name, picture, or other information that would readily lead to the
 3 identification of a child who is the subject of the proceeding. If a person violates the
 4 order, the court may impose any appropriate sanction, including contempt and closure
 5 of any further hearings in the proceeding to the person.

6 (6) A party to the proceeding may move the court to close to the public
 7 a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this
 8 paragraph. A member of the public may request in writing to be served with a motion
 9 filed under this subparagraph. If such a request has been filed in advance of the filing
 10 of the motion, the party filing the motion must also serve the member of the public
 11 who requested notice under this subparagraph. The court may waive the service
 12 required under this subparagraph to a member of the public if a motion to close the
 13 hearing, or part of the hearing, is made under this subparagraph immediately before or
 14 during the hearing and the court finds that

15 (A) the need for closure was not reasonably foreseeable
 16 sufficiently in advance of the hearing to allow for notice;

17 (B) there is good cause not to delay the hearing in order to
 18 achieve notice, taking into consideration the age of the child and the potential
 19 adverse effect that a delay could have on the child; and

20 (C) whatever notice is practicable under the circumstances has
 21 occurred.

22 * **Sec. 52.** The uncoded law of the State of Alaska is amended by adding a new section to
 23 read:

24 DIRECT COURT RULE AMENDMENT. Rule 3, Alaska Child in Need of
 25 Aid Rules of Procedure, is amended by adding a new subsection to read:

26 (j) **Use of Child's Name and Identifying Information Prohibited.**
 27 References to a child shall be made using the child's first name only. All identifying
 28 information of the child, including the child's last name, address, and the names of the
 29 child's immediate family members, shall be protected during the hearing so that only
 30 the confidential record contains that information. If a child appears at the hearing, the
 31 child shall be located away from view of the public.

1 * **Sec. 53.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need
4 of Aid Rules of Procedure, is amended to read:

5 (f) **Additional Findings.** In addition to the findings required under paragraph
6 (e), the court shall also make written findings related to

7 (1) whether the Department has made reasonable efforts required
8 under AS 47.10.086 or, in the case of an Indian child, whether the Department has
9 made active efforts to provide remedial services and rehabilitative programs as
10 required by 25 U.S.C. Sec. 1912(d);

11 (2) whether the parent or guardian has made substantial progress to
12 remedy the parent's or guardian's conduct or conditions in the home that made the
13 child a child in need of aid; [AND]

14 (3) if the permanent plan is for the child to remain in out-of-home care,
15 whether the child's out-of-home placement continues to be appropriate and in the best
16 interests of the child; **and**

17 **(4) whether the Department has made reasonable efforts to finalize**
18 **the permanent plan for the child.**

19 * **Sec. 54.** The uncoded law of the State of Alaska is amended by adding a new section to
20 read:

21 DIRECT COURT RULE AMENDMENT. Rule 18(d)(1), Alaska Child in
22 Need of Aid Rules of Procedure, is amended to read:

23 (d) **Relinquishment.**

24 (1) Notwithstanding other provisions of this rule, the court may
25 terminate parental rights after a voluntary relinquishment pursuant to **AS 47.10.089**
26 [AS 25.23.180]. In the case of an Indian child, the relinquishment must meet the
27 requirements set forth in 25 U.S.C. § 1913(c).

28 * **Sec. 55.** The uncoded law of the State of Alaska is amended by adding a new section to
29 read:

30 DIRECT COURT RULE AMENDMENT. Rule 22(c), Alaska Child in Need
31 of Aid Rules of Procedure, is amended to read:

(c) **Child's Name or Picture.** The name or picture of a child who is the subject of a CINA proceeding may not be made available to the public unless authorized by court order accompanied by a written statement reciting the circumstances which support such authorization, or unless to implement the permanency plan for the child after all parental rights of custody have been terminated.

* **Sec. 56.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 9(a), Alaska Adoption Rules, is amended to read:

(a) **Form.** A consent or relinquishment must be in writing and must include:

- (1) notice of the person's right to withdraw the consent or relinquishment as provided by paragraphs (g) and (h) of this rule;
- (2) the address and telephone number of the court in which the adoption or relinquishment proceeding has or is expected to be filed;
- (3) a statement of the right to counsel as stated in Rule 8;
- (4) a statement concerning whether or not any visitation rights or other parental privileges are sought to be retained after the adoption;
- (5) if a consent, the information required in AS 25.23.060; and
- (6) if signed by a parent, a statement of whether the parent is a minor.

* **Sec. 57.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 9(g), Alaska Adoption Rules, is amended to read:

(g) **Withdrawal of Consent or Relinquishment of a Non-Indian Child.**

The parent of a non-Indian child may withdraw a consent or relinquishment by notifying in writing the court, or the person or agency obtaining the consent or relinquishment, within 10 days of the birth or signing of the consent or relinquishment, whichever is later. Notification is timely if received or postmarked on or before the last day of this time period. The parent may move the court to permit withdrawal of the consent or relinquishment after the 10 day period pursuant to

AS 25.23.070 for a consent or AS 25.23.180(g) or AS 47.10.089(h) for a relinquishment.

* **Sec. 58.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 13(a), Alaska Adoption Rules, is amended to read:

(a) **Voluntary Relinquishment.** A decree terminating parental rights may be entered after a voluntary relinquishment pursuant to AS 25.23.180 or AS 47.10.089. The court shall enter findings of fact which must include a statement concerning whether visitation rights are being allowed under AS 25.23.130(c) or other privileges are being retained under AS 25.23.180 or AS 47.10.089, and whether the time limit for withdrawal of the relinquishment has elapsed. If the relinquishment was signed in the presence of the court, findings also must be entered as to whether the parent understood the consequences of the relinquishment, and whether the relinquishment was voluntarily signed.

In the case of a voluntary relinquishment of parental rights to an Indian child, the court shall make additional findings concerning whether any notice required by Rule 10(e) was timely given; whether the relinquishment was voluntary and in compliance with the requirements of 25 U.S.C. Section 1913; and whether the child's placement complies with the preferences set out in 25 U.S.C. Section 1915 or good cause exists for deviation from the placement preference.

* **Sec. 59.** The uncoded law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENT. (a) AS 13.26.064, added by sec. 3 of this Act, amends Rules 14 and 15, Alaska Rules of Probate Procedure, by providing that retained privileges be set out in the guardianship decree and by providing additional procedures related to a voluntary relinquishment of parental rights.

(b) AS 25.23.180(j) - (n) and AS 47.10.089, added by secs. 5 and 19 of this Act, amend Rules 9 and 13, Alaska Adoption Rules, by requiring retained privileges to be set out in the relinquishment form and order and by providing additional procedures related to the

1 relinquishment.

2 (c) AS 25.23.180(k) - (n) and AS 47.10.089(g), (h), and (j), added by secs. 5 and 19
3 of this Act, amend Rule 13, Alaska Adoption Rules, by authorizing review hearings for
4 voluntary relinquishments.

5 (d) AS 47.10.080(l), as amended by sec. 13 of this Act, amends Rule 17.2(f), Alaska
6 Child in Need of Aid Rules of Procedure, by modifying the grounds for review of a
7 permanent plan.

8 (e) AS 47.10.089, added by sec. 19 of this Act, amends Rule 18, Alaska Child in
9 Need of Aid Rules of Procedure, by providing that a relinquishment be in writing, allowing
10 for the withdrawal of the relinquishment, allowing for the retention of certain privileges, and
11 authorizing a review hearing before the entry of an adoption or legal guardianship decree.

12 * **Sec. 60.** The uncoded law of the State of Alaska is amended by adding a new section to
13 read:

14 **INDIRECT COURT RULE AMENDMENT.** (a) Sections 10 and 11 of this Act,
15 AS 47.10.080(v), enacted by sec. 15 of this Act, and AS 47.10.088(o), enacted by sec. 18 of
16 this Act, have the effect of changing Rule 3, Alaska Child in Need of Aid Rules of Procedure,
17 by allowing members of the public to attend court hearings except in certain circumstances.

18 (b) Sections 21 and 24 - 29 of this Act have the effect of changing Rule 22, Alaska
19 Child in Need of Aid Rules of Procedure, by allowing the disclosure of confidential
20 information pertaining to a child, including a child's name or picture to be made public in
21 certain circumstances.

22 * **Sec. 61.** The uncoded law of the State of Alaska is amended by adding a new section to
23 read:

24 **APPLICABILITY.** (a) The amendments to Rule 3, Alaska Child in Need of Aid
25 Rules of Procedure, made by secs. 50 - 52 of this Act, apply to hearings that are conducted on
26 or after the effective date of secs. 50 - 52 of this Act.

27 (b) Sections 10 - 12, 15, 18, 20, 21, 24 - 29, and 50 - 52, and 55 of this Act apply to
28 all proceedings and hearings conducted on or after the effective date of those sections.

29 (c) Sections 10, 11, 15, 18, and 21 - 29 of this Act apply to all information, records,
30 and files created on or after the effective date of those sections; however, if a file contains
31 information and records that were created before the effective date of secs. 10, 11, 15, 18, and

21 - 29 of this Act, that information and those records retain the confidentiality that they had under the law on the day before the effective date of secs. 10, 11, 15, 18 , and 21 - 29 of this Act.

* **Sec. 62.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Health and Social Services may proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant statutory change.

* **Sec. 63.** The uncoded law of the State of Alaska is amended by adding a new section to read:

REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the heading of AS 47.10.088 from "Termination of parental rights and responsibilities" to "Involuntary termination of parental rights and responsibilities."

* **Sec. 64.** The uncoded law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. (a) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure, made by secs. 50 - 52 of this Act, take effect only if secs. 50 - 52 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(b) Section 13 of this Act and Rule 17.2(f), Alaska Child in Need of Aid Rules, as amended by sec. 53 of this Act, take effect only if sec. 53 and sec. 59(d) of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(c) Rule 18(d)(1), Alaska Child in Need of Aid Rules, as amended by sec. 54 of this Act, takes effect only if sec. 54 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(d) The amendments to Rule 22(c), Alaska Child in Need of Aid Rules of Procedure, made by sec. 55 of this Act take effect only if sec. 55 of this Act receives the two-thirds majority vote of each house required by Art. IV, sec. 15, Constitution of the State of Alaska.

(e) Sections 10 and 11 of this Act, AS 47.10.080(v), enacted by sec. 15 of this Act,

1 AS 47.10.088(o), enacted by sec. 18 of this Act, and secs. 21 and 24 - 29 of this Act, take
 2 effect only if secs. 50 - 52, 55, and 60 of this Act receive the two-thirds majority vote of each
 3 house as required by art. IV, sec. 15, Constitution of the State of Alaska.

4 (f) Rule 9(a), Alaska Adoption Rules, as amended by sec. 56 of this Act, takes effect
 5 only if sec. 56 of this Act receives the two-thirds majority vote of each house required by art.
 6 IV, sec. 15, Constitution of the State of Alaska.

7 (g) Rule 9(g), Alaska Adoption Rules, as amended by sec. 57 of this Act, takes effect
 8 only if sec. 57 of this Act receives the two-thirds majority vote of each house required by art.
 9 IV, sec. 15, Constitution of the State of Alaska.

10 (h) Rule 13(a), Alaska Adoption Rules, as amended by sec. 58 of this Act, takes effect
 11 only if sec. 58 of this Act receives the two-thirds majority vote of each house required by art.
 12 IV, sec. 15, Constitution of the State of Alaska.

13 (i) AS 13.26.064, added by sec. 3 of this Act, AS 25.23.180(j) - (n), added by sec. 5
 14 of this Act, and AS 47.10.089, added by sec. 19 of this Act, take effect only if sec. 59(a) and
 15 (b) of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
 16 Constitution of the State of Alaska.

17 * **Sec. 65.** If, under sec. 64 of this Act, secs. 10 and 11 of this Act, AS 47.10.080(v),
 18 enacted by sec. 15 of this Act, AS 47.10.088(o), enacted by sec. 18 of this Act, and secs. 21
 19 and 24 - 29 of this Act take effect, they take effect July 1, 2005.

20 * **Sec. 66.** Except as provided in sec. 65 of this Act, this Act takes effect immediately under
 21 AS 01.10.070(c).